



ENTERED  
02/03/2011

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

IN RE:

DIABETES AMERICA, INC.,

Debtor.

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§  
§  
§

CASE NO. 10-41521

CHAPTER 11

**FINAL ORDER AUTHORIZING USE OF ALLEGED CASH COLLATERAL**

Came on this day to be considered the Emergency Motion of the Debtor for Interim and Final Order Authorizing Use of Cash Collateral and Granting Related Relief (the "Motion"), filed herein by Diabetes America, Inc., the above-captioned debtor and debtor-in-possession (the "Debtor"). The Court finds that it has jurisdiction to consider the relief requested in the Motion, pursuant to 28 U.S.C. §§ 157 and 1334. The Court further finds that this matter constitutes a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The Court therefore

**HEREBY FINDS:**

A. The Court has previously held two interim hearings on the Debtor's proposed use of cash collateral.

B. Upon the Court's review of the record, the evidence presented at the prior hearings on the use of cash collateral, the representations of counsel for the Debtor at such hearings, and the representations in that certain "Unsworn Declaration Bonita L. Groesser," filed contemporaneously herein by the Debtor, the relief requested in the Motion should be granted, on a final basis, and such relief is necessary for the preservation of the Debtor's estate and to avoid potential immediate and irreparable harm to the estate pending a final hearing on Debtor's Motion.

D. The respective positions of MetroBank, N.A. ("MetroBank") and the Other Secured Creditors<sup>1</sup> are adequately protected on an interim basis, subject to the terms set forth herein.

E. The Motion and notice given of the interim and final hearings on the Motion was appropriate and reasonable under the circumstances of this case.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that:

1. The Motion is **GRANTED**, on a final basis, and the Debtor is hereby authorized to use the alleged cash collateral of MetroBank and the Other Secured Creditors to pay the expenses described in the Budget attached as Exhibit "A" to this Order; provided that the Debtor may deviate from the attached Budget and incur additional expenses after obtaining either (a) consent from MetroBank or (b) approval by this Court.

2. Nothing contained in the Motion or this Order shall constitute a finding by this Court that either MetroBank or the Other Secured Creditors hold valid, perfected and unavoidable security interests or liens on any assets of Debtor's bankruptcy estate or otherwise.

3. Nothing contained in the Motion or this Order shall constitute a finding by this Court that any of the income or assets described in Exhibit "A" attached to the Motion constitute property of the Debtor or Debtor's bankruptcy estate.

4. As adequate protection only, MetroBank and the Other Secured Creditors are hereby granted a replacement lien on the Debtor's post-petition accounts receivable and proceeds of collection of the Debtor's accounts receivable, to the extent the use of any such creditors' cash collateral results in a decrease in the value of each such creditors' interest in such property upon which such creditor holds a validly perfected and unavoidable lien on property of Debtor's bankruptcy estate.

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<sup>1</sup> Terms not otherwise defined herein have the same meaning ascribed to them in the Motion.

5. Notwithstanding anything in this Order, the Debtor shall reserve the right to file a subsequent pleading seeking Court authority to grant a senior priority lien on any assets of the bankruptcy estate to any potential debtor-in-possession lender, pursuant to section 364(d)(1) of the Bankruptcy Code.

6. No estate revenues will be used to pay salaries or wages of physicians employed by DCOA—Physicians Associates, P.A. (only revenues generated by DCOA—Physicians Associates, P.A. can be used to pay such salaries or wages).

7. Nothing in this Order shall affect MetroBank's right to challenge the reasonableness of restructuring costs incurred by the Debtor.

8. Notwithstanding anything in this Order, the Official Committee of Unsecured Creditors (the "Committee") shall have fourteen (14) days from entry of an order approving employment of counsel by the Committee (but in no event later than March 1, 2011) to move to modify or amend this Order, if, after its review, such action is warranted.

SIGNED **February 3, 2011.**

  
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Marvin Isgur  
UNITED STATES BANKRUPTCY JUDGE

Assumed Chapter 11 Protection Filing Date

1	2	3	4	5	6	7	8	9	10	11	12	13
20-Dec	27-Dec	3-Jan	10-Jan	17-Jan	24-Jan	31-Jan	7-Feb	14-Feb	21-Feb	28-Feb	7-Mar	14-Mar

Cash Inflow

Cash-in-Bank

Collections on A/R - Normal

New A/R - post Bankruptcy

Patient Cash Receipts

Third Party Payments

Old A/R - pre Bankruptcy

BCBS Bridges to Excellence

Medicare - New Physicians

Cash Outflow

Payroll

Health Insurance

Facility Rent

Building Expenses

Property Taxes

Clinic Consumables

Referral Equipment

Contract Labor

Endeavor (Patient Receivables)

Insurance

IT &amp; Telecommunication

Franchise Taxes

Continuing Education

Marketing/Advertising

Other Operating Expenses

Total Cash Flow from OperationsExcess/Deficit of Cash

A/R Revolver

Debt

Equity

Restructuring ExpensesEnding Cash BalanceAccounts Receivables

Office Visits (Average)

Projected Reimbursement Rate

Total Projected Revenue

Billings Submitted to Payor

One-time Delay for Payor Set-up

Normal Payor Processing Time

Accounts Receivables - Revolver (New A/R)

Billings

Lending Amount

Borrowings/(Payment)

Cumulative Borrowing

Available for Borrowing

Accounts Receivables - Collections Old A/R

A/R Balance at Bankruptcy

Projected Collections

Remaining Balance

Restructuring Expenses

Attorney

HMG

Broker

Accountants

Other - Estimated @ 10% of Total

Total

\$ 88,676	\$ 338,409	\$ 132,249	\$ 249,804	\$ 57,810	\$ 133,585	\$ (7,269)	\$ 93,835	\$ (6,237)	\$ 68,685	\$ (88,237)	\$ 44,440	\$ (76,618)
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20,183	20,183	20,183	20,183	20,183	20,183	20,183	20,183	20,183	20,183	20,183	20,183	20,183
-	-	74,250	214,569	232,858	215,107	224,784	255,483	258,625	256,276	257,712	260,122	260,333
\$ 288,292	\$ 283,506	\$ 217,959	\$ 68,469	\$ 59,622	\$ 41,600	\$ 34,494	\$ 26,045	\$ 22,240	\$ 17,016	\$ 2,315	\$ -	\$ -
			10,000				33,809	10,000			11,270	10,000

388,244	56,345	12,281	388,244	349,420	41,345	12,281	349,420	331,949	37,764	12,281	331,949	146,953
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-	-	88,656	146,953	-	-	88,656	146,953	-	-	68,210	-	146,953
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-	-	32,590	32,590	32,590	32,590	32,590	32,590	25,919	25,103	25,103	25,103	27,046
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-	-	8,763	5,316	3,781	3,781	3,781	3,781	5,316	879	879	879	16,000
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-	-	12,923	12,923	11,523	11,523	11,523	11,523	11,523	11,383	11,383	11,523	11,383
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13,541	13,541	13,541	13,541	11,383	11,383	11,383	11,383	11,383	11,383	11,383	11,383	11,383
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-	3,595	3,805	3,595	2,999	2,999	2,999	2,999	2,999	2,999	2,999	2,999	2,999
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10,006	10,006	10,006	10,006	7,173	7,173	7,173	7,173	7,173	7,173	7,173	7,173	7,173
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285,928	(180,965)	142,751	(166,798)	100,980	(115,668)	119,803	(81,371)	93,621	(138,222)	151,377	(102,358)	71,962
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\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
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\$ 36,196	\$ 25,196	\$ 25,196	\$ 25,196	\$ 25,196	\$ 25,196	\$ 18,700	\$ 18,700	\$ 18,700	\$ 18,700	\$ 18,700	\$ 18,700	\$ 18,700
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\$ 338,409	\$ 132,249	\$ 249,804	\$ 57,810	\$ 133,585	\$ (7,269)	\$ 93,835	\$ (6,237)	\$ 68,685	\$ (88,237)	\$ 44,440	\$ (76,618)	\$ (23,356)
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90%	1,177	914	855	1,025	1,025	1,025	1,025	1,025	1,025	1,065	1,065	1,065
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\$ 275	\$ 275	\$ 275	\$ 275	\$ 275	\$ 275	\$ 275	\$ 275	\$ 275	\$ 275	\$ 274	\$ 274	\$ 274
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\$ 323,675	\$ 251,350	\$ 235,125	\$ 281,738	\$ 280,057	\$ 280,057	\$ 280,057	\$ 280,057	\$ 280,713	\$ 291,673	\$ 291,673	\$ 291,673	\$ 291,673
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\$ 297,000	\$ 323,675	\$ 251,350	\$ 235,125	\$ 281,738	\$ 280,057	\$ 280,057	\$ 280,057	\$ 280,057	\$ 280,713	\$ 291,673	\$ 291,673	\$ 291,673
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		\$ 74,250	\$ 214,569	\$ 253,041	\$ 235,290	\$ 244,977	\$ 275,686	\$ 278,808	\$ 276,459	\$ 277,895	\$ 280,305	\$ 280,516
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\$ 297,000	\$ 323,675	\$ 251,350	\$ 235,125	\$ 281,738	\$ 280,057	\$ 280,057	\$ 280,057	\$ 280,057	\$ 280,713	\$ 291,673	\$ 291,673	\$ 291,673
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85%	\$ 252,450	\$ 275,124	\$ 213,648	\$ 199,856	\$ 239,477	\$ 238,049	\$ 238,049	\$ 238,049	\$ 238,049	\$ 238,606	\$ 247,922	\$ 247,922
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\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000
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\$ 2,512,033	\$ 2,222,741	\$ 1,939,235	\$ 1,661,399	\$ 1,389,120	\$ 1,138,623	\$ 913,176	\$ 719,291	\$ 568,061	\$ 450,102	\$ 358,094	\$ 286,327	\$ 230,349
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\$ 289,292	\$ 283,506	\$ 277,836	\$ 272,279	\$ 250,467	\$ 223,447	\$ 193,685	\$ 151,230	\$ 117,959	\$ 92,008	\$ 71,767	\$ 55,978	\$ 43,663
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\$ 2,222,741	\$ 1,939,235	\$ 1,661,399	\$ 1,389,120	\$ 1,138,623	\$ 913,176	\$ 719,291	\$ 568,061	\$ 450,102	\$ 358,094	\$ 286,327	\$ 230,349	\$ 186,686
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\$ 15,905	\$ 15,905	\$ 15,905	\$ 15,905	\$ 15,905	\$ 15,905	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000
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\$ 4,500	\$ 4,500	\$ 4,500	\$ 4,500	\$ 4,500	\$ 4,500	\$ 4,500	\$ 4,500	\$ 4,500	\$ 4,500	\$ 4,500	\$ 4,500	\$ 4,500
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\$ 10,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
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\$ 2,500	\$ 2,500	\$ 2,500	\$ 2,500	\$ 2,500	\$ 2,500	\$ 2,500	\$ 2,500	\$ 2,500	\$ 2,500	\$ 2,500	\$ 2,500	\$ 2,500
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\$ 3,291	\$ 2,291	\$ 2,291	\$ 2,291	\$ 2,291	\$ 2,291	\$ 1,700	\$ 1,700	\$ 1,700	\$ 1,700	\$ 1,700	\$ 1,700	\$ 1,700
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\$ 36,196	\$ 25,196	\$ 25,196	\$ 25,196	\$ 25,196	\$ 25,196	\$ 18,700	\$ 18,700	\$ 18,700	\$ 18,700	\$ 18,700	\$ 18,700	\$ 18,700
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1/26/2011

Unaudited or otherwise verified